

## **DRAFT**

# **Law on Real Estate Tax**

## **Chapter 1. Establishment of the Tax**

### **Article 1.**

#### **Establishment of the Brcko District Law on Real Estate Tax.**

The Law introduces the obligation and regulates the procedure for payment of real estate tax. The real estate tax is paid on the basis of ownership over real-estate, the right of use and the right of construction, as well as during sale, or another basis of transfer of real estate.

### **Article 2.**

#### **The meaning of the terms**

Pursuant to the Law certain terms have the following meaning:

- a. Assessed Value: The officially established market value of real estate for the purposes of applying this law.
- b. Market Value: The price for which real estate would sell and be purchased in a free market transaction between two non-related persons.
- c. Tax base: The officially established market value of real estate for the purposes of applying this law.
- d. Assessment: An official declaration of the tax owed by a taxpayer for a specific piece of real estate, based on the law and the assessed value.
- e. Owner: The person on record as having full ownership rights over a real estate.
- f. Real estate: Land and all immoveable property or assets attached thereto.

- g. Refugee: Person who has been disposed from his land or real estate during the conflicts of the early 1990s, and as established in Annex VII of the Dayton Agreement.
- h. Taxpayer: The person responsible for paying the tax.
- i. Person: Physical person – citizen or legal person.

### **Article 3.**

#### **Subject of Taxation.**

- (1) The real estate in the territory of Brcko District, as of January 01 of the assessment year, which is not specifically exempted under the laws of District Brcko , is subject to the real estate tax.
- (2) The real estate, from paragraph 1 of this Article includes the right of ownership, use or construction, land, buildings, units of buildings, and other construction structures.
- (3) The subject of taxation is the sale or transfer of real estate on another basis, to other person or persons.
- (4) Buildings and other construction structures owned separately from land and separately owned units of buildings may be taxed separately.

## **Chapter 2. Taxpayers**

### **Article 4.**

#### **The Taxpayer.**

- (1) The real estate taxpayer is any person, owner of the real estate pursuant to the Article 3, Paragraph 1, of this Law.
- (2) In the event of a sale or any other form of transfer of the real estate the new acquirer is the taxpayer for the real estate transfer tax;

- (3) Except for the provisions of the Paragraph (1) of this Article when the owner of real estate is unknown or it has not been determined, the user of the real estate is the real estate taxpayer.
- (4) If several persons have partial ownership or joint ownership of the same real estate, a real estate taxpayer is each of those persons in proportion to ownership share. Taxpayers are jointly and severally liable for the payment of real estate tax.
- (5) In the case of use of building rights and the right of use the taxpayer for real-estate is the user of that real estate, in the case he/she is not paying for the rent, and the owner of the structure is the taxpayer for the structure and the land taken over therefrom.

## **Article 5.**

### **Responsibilities of the taxpayer.**

Those subject to the real estate tax have the following responsibilities:

- a. Taxpayers, citizens and legal entities are obliged to file the declaration to the Tax Administration on all real estate located in the area of Brcko District BiH within 60 days, as of the day of issuing of the Law.

The contents and format of the tax declaration will be regulated pursuant to the Book of Rules on the application of this Law.

Buyers or acquirers of the real estate are obliged to file a declaration on the transaction to the Tax Administration within 15 days as of the day of occurrence of the tax liability, in accordance with the Article 28 of the Law.

Taxpayer is obliged to make timely payments of the tax, interests, and fines in accordance with this Law

- b. Sales or any other transaction of real estate is to be registered with the Tax Administration of Brcko District BiH.

The parties in the transaction are obliged to settle tax liabilities upon registration of the transaction with the Tax Administration.

The registration of the real estate with the real Estate Register of Brcko District is to be made after the registration with the Tax Administration of Brcko District BiH.

- c. The acquirer of the real estate is responsible for ensuring that his/her real estate is recorded in the Brcko District real estate registry, in accordance with the current laws.
- d. Agreements entered into among individuals or individuals and organizations with regard to the payment of the real estate tax are not of relevance to the Brcko District Tax Administration Agency.
- e. The real estate tax will be paid by the taxpayer in accordance with the Law on Tax Administration of Brcko District BiH.
- f. In case of non-payment of the tax, regardless of any agreements existing between the given parties, the enforced collection will be made accordingly to the provisions of the Law on Tax Administration of Brcko District BiH.

### **Chapter 3. Tax exemptions and relieves**

#### **Article 6.**

#### **Tax exemptions**

The following are not subject to the real estate tax:

- a. Property of the State of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska, Brcko District, or other local government authorities;
- b. Property of religious communities, such as temples, mosques, and churches, and the residential property for their clergy, owned by religious communities;
- c. Those properties that comprise environmentally sensitive areas that are not open to development, as may be decreed or ordered by the Assembly and the Mayor of Brcko District, such as: hydrographical basins, certain watersheds, forest reserves, and parks, and such like;

- d. Those belonging to or used by accredited consular and diplomatic missions, in case the real estate is used for such purposes and under the condition of reciprocity. Real estate owned by international organizations, if so stipulated under multilateral and bilateral agreements signed by the Brcko District and Bosnia and Herzegovina, which call for such an exemption.
- e. Tax on sales or transfer of real estate is not paid in the following cases:
  - a. During sales or transfer of real estate to a person in the first line of heirs in relation to the seller, i.e. receiver of the real estate;
  - b. During first sale or transfer of real estate – for the newly built facility with land (sold or transferred) by the construction companies, where value added tax is paid.

## **Article 7.**

### **Relief**

The real estate tax shall not be paid in the case when total tax basis, for entire real estate belonging to a specific taxpayer, does not exceed 15,000 KM, except in cases of sale or transfer of real estate to other person or other persons.

The taxpayer who is, in accordance with the Laws of Brcko District, a beneficiary of the social welfare fund is exempt of real estate tax.

The request to use the relief from Paragraph 1 and Paragraph 2 is to be filed with the Tax Administration of Brcko District for each calendar year.

## **Article 8.**

### **Tax relief for refugees**

Real estate belonging to refugees, as defined in Annex VII of the Dayton Accords, who have not returned to reclaim their real estate, shall be exempt from the tax.

## **Chapter 4. Tax Rates**

### **Article 9.**

#### **Real-estate Tax Rate**

- (1) The tax rates for real estate are proportional.
- (2) Real estate tax is paid at the rate of 0,50%

### **Article 10.**

#### **Tax rate on the Sale or Transfer of Real Estate**

- (1) The real estate tax is paid for sales or transfer of real-estate at the rate of 1,00%
- (2) The tax referred to in Paragraph 1 of this Article is applied whenever real estate is sold or transferred from one or more persons to one or more persons, regardless of the reason for the transfer, except for the transfer of real estate on the basis of inheritance and gift in the first line of heirs, in accordance with the Inheritance Law.

## **Chapter 5. Assessment of the Tax**

### **Article 11.**

#### **Assessments**

- (1) Real-estate market value, as the base for taxation in accordance with this Law, is established by the Commission comprised of professionals from various fields, appointed by the Tax Administration.
- (2) Harmonization of the market values with the conditions referred to in Paragraph 2 of this Article is to be made every 3 years.
- (3) Tax assessment is official determination of the real estate tax to the base established in accordance with this Article.

The tax assessment is made by the Tax Administration of Brcko District.

- (4) The Tax Administration will make the tax assessment for all taxpayers, every year, by March 31 for the current year, in accordance with this Law and the Law on Tax Administration of Brcko District. Exceptionally from the provision of this Paragraph, the tax assessment for the 2006, as the first year of the application of this Law, will be made until June 30, 2006.

## **Article 12.**

### **Requested Reassessments**

The real estate owner - user may request the Tax Administration Agency to revalue or reassess a property when it has suffered damage beyond the cause or responsibility of the owner or right holder. Such damages may occur from drought, flood, fire, earthquake, war, or other catastrophes.

## **Article 13.**

### **Reassessments based on infrastructure improvements.**

The Tax Administration Agency shall reassess real estate when substantial improvements to public services have been made. These may include, but are not limited to, new roads, highways, significant improvements to roads, sewers, water systems, and other infrastructure systems.

## **Article 14.**

### **Other reassessments.**

Real estate shall be reassessed by the Tax Administration Agency when:

- a. The real estate is sold,
- b. The real estate is transferred or gifted to another owner,

- c. The real estate is inherited,
- d. The real estate is foreclosed by a financial institution or an individual or groups of persons, due to default,
- e. The real estate is annexed to joining properties,
- f. The real estate is divided into smaller, individual parts, some or all of which may or may not be sold,
- g. New construction or improvements are carried out on the property.

#### **Article 15.**

##### **Appeals**

With regards to filing and solving of objections and appeals the provisions of the Law on tax Administration of Brcko District BiH and the Law on Administrative Procedure of Brcko District BiH shall be applied.

### **Chapter 6. Responsibilities of the Brcko District Tax Administration**

#### **Article 16.**

##### **Administrative capacity.**

The Brcko District Tax Administration Agency is required by this legislation to prepare the tax assessment, maintain records on the bases and the real estate tax and execute modern collection procedures for the tax in accordance with the Law and the Book of Rules



**Article 17.**

**Issuing the Book of Rules**

The Tax Administration of Brcko District , with the approval of the Mayor of Brcko District BiH, issues the Book of Rules for the implementation of this Law, within the period of 30 days from the date of issuing of the Law.

**Article 18.**

**Preparation for tax assessment**

Upon issuing of this Law, the Tax Administration is obliged to implement the activities for the purpose of application of this Law.

**Article 19.**

**Assessment Standards Development**

The Tax Administration Agency must develop and make publicly available its methodologies for determining market real estate values based on various elements. The methodology to be employed will be based on the statistical analysis of how factors determine market values, in accordance with the Article 15 of this Law.

The basic criteria to determine the real estate market value are the following:

- the purpose of the real estate,
- the size of the real estate,
- the location of the real estate,
- the quality of the real estate,
- other elements influencing the market value.

The methodology used for real estate evaluation is issued by the Mayor, according to the proposal of the Tax Administration of Brcko District.

**Article 20.**

**Maintenance of Assessment Standards**

The Tax Administration Agency shall constantly maintain records on information and prepare periodic analysis to ensure the appropriate assessment standards within their respective jurisdictions.

**Chapter 7. Effect, Dates, and Means and Place of Payment**

**Article 21.**

**Tax Assessment Period**

Real-estate tax amount is established for the calendar year.

**Article 22.**

**Effective valuation dates**

- (1) Real-estate tax for the current year is established by March 31 of the current year. Exceptionally, real estate tax for 2006 will established until June 30, 2006.
- (2) The tax obligation for sales or transfer of real estate occurs:
  1. on the date of the agreement,
  2. on the date of validity of the decision of court or administrative body, which is the base for transfer of real estate.
- (3) In case the agreement on transfer of real estate, or the decision from Item 2 of this Paragraph are not registered, or are not registered in due time, the tax liability occurs on the day of registration, i.e. the day the tax body finds out about the transaction of the real estate.

## **Article 23.**

### **Payment dates for real estate tax**

1. The real estate tax is to be paid until January 15<sup>th</sup> for the final calendar quarter of the previous year; until April 15<sup>th</sup> for the first quarter of the effective tax year; until July 15<sup>th</sup> for the second quarter; and, until October 15<sup>th</sup> for the third quarter. Each payment shall be equal to one-fourth of the annual tax obligation.
2. The tax on sales or transfer of real estate is to be paid within 15-days period from the date of receiving the assessment decision letter.

## **Article 24.**

### **Late Payments**

- (1) Taxpayers are responsible for making all payments according to the schedule determined by law and the Book of Rules.
- (2) For past due payment of the tax the penalty interest rate will be calculated and paid in accordance with the Law on the Penalty Interest Rate of Brcko District BiH

## **Chapter 8. Final Provisions**

## **Article 25.**

### **Tax Administration's jurisdiction over application of the Law**

The procedure of assessment, control, collection, violation process conduct, and other activities with regards to implementation of this Law will be executed by the Tax Administration of Brcko District BiH.

**Article 26.**

**The Application of Tax Law**

For all issues not regulated under this Law and with regards to assessment, interest rate, limitation period, enforced collection, penal provisions, and such like, the Law on Tax Administration of Brcko District BiH shall be applied.

**Article 27.**

**Repeal of the Legislation**

As of the date of entry into force of this Law, the Law on Property Taxes (“Official Gazette of RS”, no: 8/94), in the area of Brcko District BiH, ceases to apply

**Article 28.**

**Enter into Force**

This law shall enter into force within eight (8) days from the day of its publishing in the “Official Gazette of Brcko District” and it shall be effective from January 1, 2006.

THE PRESIDENT  
OF BRCKO DISTRICT ASSEMBLY  
Prof.dr. Milan Tomic